

**ASSEMBLY BILL**

**No. 1172**

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**Introduced by Assembly Member Sharon Runner**

February 23, 2007

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An act to amend Sections 3003, 3058.6, 3058.65, 3058.8, and 3058.9 of the Penal Code, and to amend Sections 6608, 6608.5, and 6609.1 of the Welfare and Institutions Code, relating to inmates.

LEGISLATIVE COUNSEL'S DIGEST

AB 1172, as introduced, Sharon Runner. Inmate release.

Existing law requires, prior to release from the custody of the Department of Corrections and Rehabilitation of a person who has been convicted of certain crimes of a sexual nature, the director to refer that person to the State Department of Mental Health for evaluation if the director determines that person may be a sexually violent predator.

Under existing law, if the State Department of Mental Health determines that the person is a sexually violent predator, the department is required to forward a request for the filing of a petition to the counsel designated by the county in which the person was convicted. The law authorizes civil commitment of the person to the State Department of Mental Health as a sexually violent predator for treatment in a secure facility, if the person is adjudicated to be likely to engage in sexually violent criminal behavior if discharged.

Pursuant to an initiative measure, certain provisions of existing law may not be amended by the Legislature, except by a  $\frac{2}{3}$  vote bill, or by a majority vote bill to expand the scope of the application of those provisions or to increase the punishments or penalties.

Existing law relating to the release of inmates who have been convicted of certain crimes requires notices to be given to affected local agencies within 45 days.

This bill would increase certain of these notice requirements to 60 days and others to 90 days.

Existing law relating to conditional release hearings for sexually violent predators requires the court to give a 15-day notice of the hearing to the committed person's attorney and to the State Department of Mental Health, and requires that, if approved by the court, the person be placed in the community within 21 days after receipt of the court's findings.

This bill would increase those notice requirements to 60 days.

Existing law, with certain exceptions, requires the department to provide a 15-day notice to local officials prior to recommending to the court that a sexually violent predator be conditionally released for community treatment.

This bill would increase that notice to 45 days.

Existing law prohibits release of an inmate who has committed certain crimes involving great bodily injury from being released within 35 miles of the actual residence of a victim or witness, and requires, with certain exceptions, a committed sexually violent predator who is conditionally released to be placed in the county of domicile of the person prior to the person's incarceration, but not within a quarter-mile of a school in certain circumstances.

This bill would increase the crimes that apply to this prohibition, and would, similarly, prohibit conditional release of sexually violent predators to a location that is within 35 miles of the actual residence of a victim or witness of a crime pursuant to those provisions of law.

To the extent that this bill would increase the duties of local officials, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 3003 of the Penal Code is amended to read:

3003. (a) Except as otherwise provided in this section, an inmate who is released on parole shall be returned to the county that was the last legal residence of the inmate prior to his or her incarceration. For purposes of this subdivision, “last legal residence” shall not be construed to mean the county wherein the inmate committed an offense while confined in a state prison or local jail facility or while confined for treatment in a state hospital.

(b) Notwithstanding subdivision (a), an inmate may be returned to another county if that would be in the best interests of the public. If the Board of Prison Terms *Parole Hearings* setting the conditions of parole for inmates sentenced pursuant to subdivision (b) of Section 1168, as determined by the parole consideration panel, or the Department of Corrections *and Rehabilitation* setting the conditions of parole for inmates sentenced pursuant to Section 1170, decides on a return to another county, it shall place its reasons in writing in the parolee’s permanent record and include these reasons in the notice to the sheriff or chief of police pursuant to Section 3058.6. In making its decision, the paroling authority shall consider, among others, the following factors, giving the greatest weight to the protection of the victim and the safety of the community:

(1) The need to protect the life or safety of a victim, the parolee, a witness, or any other person.

(2) Public concern that would reduce the chance that the inmate’s parole would be successfully completed.

(3) The verified existence of a work offer, or an educational or vocational training program.

(4) The existence of family in another county with whom the inmate has maintained strong ties and whose support would increase the chance that the inmate’s parole would be successfully completed.

(5) The lack of necessary outpatient treatment programs for parolees receiving treatment pursuant to Section 2960.

(c) The Department of Corrections *and Rehabilitation*, in determining an out-of-county commitment, shall give priority to the safety of the community and any witnesses and victims.

(d) In making its decision about an inmate who participated in a joint venture program pursuant to Article 1.5 (commencing with Section 2717.1) of Chapter 5, the paroling authority shall give serious consideration to releasing him or her to the county where the joint venture program employer is located if that employer states to the paroling authority that he or she intends to employ the inmate upon release.

(e) (1) The following information, if available, shall be released by the Department of Corrections *and Rehabilitation* to local law enforcement agencies regarding a paroled inmate who is released in their jurisdictions:

(A) Last, first, and middle name.

(B) Birth date.

(C) Sex, race, height, weight, and hair and eye color.

(D) Date of parole and discharge.

(E) Registration status, if the inmate is required to register as a result of a controlled substance, sex, or arson offense.

(F) California Criminal Information Number, FBI number, social security number, and driver's license number.

(G) County of commitment.

(H) A description of scars, marks, and tattoos on the inmate.

(I) Offense or offenses for which the inmate was convicted that resulted in parole in this instance.

(J) Address, including all of the following information:

(i) Street name and number. Post office box numbers are not acceptable for purposes of this subparagraph.

(ii) City and ZIP Code.

(iii) Date that the address provided pursuant to this subparagraph was proposed to be effective.

(K) Contact officer and unit, including all of the following information:

(i) Name and telephone number of each contact officer.

(ii) Contact unit type of each contact officer such as units responsible for parole, registration, or county probation.

(L) A digitized image of the photograph and at least a single digit fingerprint of the parolee.

(M) A geographic coordinate for the parolee's residence location for use with a Geographical Information System (GIS) or comparable computer program.

(2) The information required by this subdivision shall come from the statewide parolee database. The information obtained from each source shall be based on the same timeframe.

(3) All of the information required by this subdivision shall be provided utilizing a computer-to-computer transfer in a format usable by a desktop computer system. The transfer of this information shall be continually available to local law enforcement agencies upon request.

(4) The unauthorized release or receipt of the information described in this subdivision is a violation of Section 11143.

(f) Notwithstanding any other provision of law, an inmate, *a sexually violent predator, or a formerly adjudicated sexually violent predator*, who is released on parole, *or a sexually violent predator on conditional release*, shall not be returned to a location within 35 miles of the actual residence of a victim of, or a witness to, a violent felony as defined in paragraphs (1) to (7), inclusive, *or paragraph (11), (15), or (18) of subdivision (c) of Section 667.5* or a felony in which the defendant inflicts great bodily injury on any person other than an accomplice that has been charged and proved as provided for in Section 12022.53, 12022.7, or 12022.9, if the victim or witness has requested additional distance in the placement of the inmate, *sexually violent predator, or a formerly adjudicated sexually violent predator*, on parole, and if the Board of ~~Prison Terms~~ *Parole Hearings* or the Department of Corrections *and Rehabilitation, or the State Department of Mental Health*, finds that there is a need to protect the life, safety, or well-being of a victim or witness.

(g) Notwithstanding any other law, an inmate who is released on parole for a violation of Section 288 or 288.5 whom the Department of Corrections and Rehabilitation determines poses a high risk to the public shall not be placed or reside, for the duration of his or her parole, within one-half mile of any public or private school including any or all of kindergarten and grades 1 to 12, inclusive.

Notwithstanding any other law, an inmate who is released on parole for an offense involving stalking shall not be returned to a location within 35 miles of the victim's actual residence or place of employment if the victim or witness has requested additional distance in the placement of the inmate on parole, and if the Board of ~~Prison Terms~~ *Parole Hearings* or the Department of Corrections

1 *and Rehabilitation* finds that there is a need to protect the life,  
2 safety, or well-being of the victim.

3 (h) The authority shall give consideration to the equitable  
4 distribution of parolees and the proportion of out-of-county  
5 commitments from a county compared to the number of  
6 commitments from that county when making parole decisions.

7 (i) An inmate may be paroled to another state pursuant to any  
8 other law.

9 (j) (1) Except as provided in paragraph (2), the Department of  
10 Corrections *and Rehabilitation* shall be the agency primarily  
11 responsible for, and shall have control over, the program, resources,  
12 and staff implementing the Law Enforcement Automated Data  
13 System (LEADS) in conformance with subdivision (e).

14 (2) Notwithstanding paragraph (1), the Department of Justice  
15 shall be the agency primarily responsible for the proper release of  
16 information under LEADS that relates to fingerprint cards.

17 SEC. 2. Section 3058.6 of the Penal Code is amended to read:

18 3058.6. (a) Whenever any person confined to state prison is  
19 serving a term for the conviction of a violent felony listed in  
20 subdivision (c) of Section 667.5, the Board of ~~Prison Terms~~ *Parole*  
21 *Hearings*, with respect to inmates sentenced pursuant to subdivision  
22 (b) of Section 1168 or the Department of Corrections *and*  
23 *Rehabilitation*, with respect to inmates sentenced pursuant to  
24 Section 1170, shall notify the sheriff or chief of police, or both,  
25 and the district attorney, who has jurisdiction over the community  
26 in which the person was convicted and, in addition, the sheriff or  
27 chief of police, or both, and the district attorney, having jurisdiction  
28 over the community in which the person is scheduled to be released  
29 on parole or rereleased following a period of confinement pursuant  
30 to a parole revocation without a new commitment.

31 (b) (1) The notification shall be made by mail at least ~~45~~ *60*  
32 days prior to the scheduled release date, except as provided in  
33 paragraph (3). In all cases, the notification shall include the name  
34 of the person who is scheduled to be released, whether or not the  
35 person is required to register with local law enforcement, and the  
36 community in which the person will reside. The notification shall  
37 specify the office within the Department of Corrections *and*  
38 *Rehabilitation* with the authority to make final determination and  
39 adjustments regarding parole location decisions.

1 (2) Notwithstanding any other provision of law, the Department  
2 of Corrections *and Rehabilitation* shall not restore credits nor take  
3 any administrative action resulting in an inmate being placed in a  
4 greater credit earning category that would result in notification  
5 being provided less than ~~45~~ 60 days prior to an inmate's scheduled  
6 release date.

7 (3) When notification cannot be provided within the ~~45~~ 60 days  
8 due to the unanticipated release date change of an inmate as a result  
9 of an order from the court, an action by the Board of ~~Prison Terms~~  
10 *Parole Hearings*, the granting of an administrative appeal, or a  
11 finding of not guilty or dismissal of a disciplinary action, that  
12 affects the sentence of the inmate, or due to a modification of the  
13 department's decision regarding the community into which the  
14 person is scheduled to be released pursuant to paragraph (4), the  
15 department shall provide notification as soon as practicable, but  
16 in no case less than 24 hours after the final decision is made  
17 regarding where the parolee will be released.

18 (4) Those agencies receiving the notice referred to in this  
19 subdivision may provide written comment to the board or  
20 department regarding the impending release. Agencies that choose  
21 to provide written comments shall respond within 30 days prior  
22 to the inmate's scheduled release, unless an agency received less  
23 than ~~45~~ 60 days' notice of the impending release, in which case  
24 the agency shall respond as soon as practicable prior to the  
25 scheduled release. Those comments shall be considered by the  
26 board or department which may, based on those comments, modify  
27 its decision regarding the community in which the person is  
28 scheduled to be released. The Department of Corrections *and*  
29 *Rehabilitation* shall respond in writing not less than 15 days prior  
30 to the scheduled release with a final determination as to whether  
31 to adjust the parole location and documenting the basis for its  
32 decision, unless the department received comments less than 30  
33 days prior to the impending release, in which case the department  
34 shall respond as soon as practicable prior to the scheduled release.  
35 The comments shall become a part of the inmate's file.

36 (c) If the court orders the immediate release of an inmate, the  
37 department shall notify the sheriff or chief of police, or both, and  
38 the district attorney, having jurisdiction over the community in  
39 which the person was convicted and, in addition, the sheriff or  
40 chief of police, or both, and the district attorney, having jurisdiction

1 over the community in which the person is scheduled to be released  
2 on parole at the time of release.

3 (d) The notification required by this section shall be made  
4 whether or not a request has been made under Section 3058.5.

5 In no case shall notice required by this section to the appropriate  
6 agency be later than the day of release on parole. If, after the ~~45-day~~  
7 *60-day* notice is given to law enforcement and to the district  
8 attorney relating to an out-of-county placement, there is change  
9 of county placement, notice to the ultimate county of placement  
10 shall be made upon the determination of the county of placement.

11 SEC. 3. Section 3058.65 of the Penal Code is amended to read:

12 3058.65. (a) (1) Whenever any person confined in the state  
13 prison is serving a term for the conviction of child abuse, pursuant  
14 to Section 273a, 273ab, 273d, any sex offense specified as being  
15 perpetrated against a minor, or an act of domestic violence, or as  
16 ordered by a court, the Board of ~~Prison Terms~~ *Parole Hearings*,  
17 with respect to inmates sentenced pursuant to subdivision (b) of  
18 Section 1168, or the Department of Corrections *and Rehabilitation*,  
19 with respect to inmates sentenced pursuant to Section 1170, shall  
20 notify the following parties that the person is scheduled to be  
21 released on parole, or rereleased following a period of confinement  
22 pursuant to a parole revocation without a new commitment, as  
23 specified in subdivision (b):

24 (A) The immediate family of the parolee who requests  
25 notification and provides the department with a current address.

26 (B) A county child welfare services agency that requests  
27 notification pursuant to Section 16507 of the Welfare and  
28 Institutions Code.

29 (2) For the purposes of this paragraph, “immediate family of  
30 the parolee” means the parents, siblings, and spouse of the parolee.

31 (b) (1) The notification shall be made by mail at least ~~45~~ *90*  
32 days prior to the scheduled release date, except as provided in  
33 paragraph (2). In all cases, the notification shall include the name  
34 of the person who is scheduled to be released, the terms of that  
35 person’s parole, whether or not that person is required to register  
36 with local law enforcement, and the community in which that  
37 person will reside. The notification shall specify the office within  
38 the Department of Corrections *and Rehabilitation* that has the  
39 authority to make the final determination and adjustments regarding  
40 parole location decisions.



(2) When notification cannot be provided within the ~~45~~ 90 days due to the unanticipated release date change of an inmate as a result of an order from the court, an action by the Board of ~~Prison Terms Parole Hearings~~, the granting of an administrative appeal, or a finding of not guilty or dismissal of a disciplinary action, that affects the sentence of the inmate, or due to a modification of the department's decision regarding the community into which the person is scheduled to be released pursuant to paragraph (3), the department shall provide notification to the parties and agencies specified in subdivision (a) as soon as practicable, but in no case less than 24 hours after the final decision is made regarding the location where the parolee will be released.

(3) Those agencies receiving the notice referred to in this subdivision may provide written comment to the board or department regarding the impending release. Agencies that choose to provide written comments shall respond within 30 days prior to the inmate's scheduled release, unless an agency received less than ~~45~~ 90 days' notice of the impending release, in which case the agency shall respond as soon as practicable prior to the scheduled release. Those comments shall be considered by the board or department which may, based on those comments, modify its decision regarding the community in which the person is scheduled to be released. The board or department shall respond in writing not less than 15 days prior to the scheduled release with a final determination as to whether to adjust the parole location and documenting the basis for its decision, unless the department received comments less than 30 days prior to the impending release, in which case the department shall respond as soon as practicable prior to the scheduled release. The comments shall become a part of the inmate's file.

(c) In no case shall the notice required by this section be later than the day the person is released on parole.

SEC. 4. Section 3058.8 of the Penal Code is amended to read:

3058.8. (a) At the time a notification is sent pursuant to subdivision (a) of Section 3058.6, the Board of ~~Prison Terms Parole Hearings~~ or the Department of Corrections *and Rehabilitation, or the designated agency responsible for notification*, as the case may be, shall also send a notice to persons described in Section 679.03 who have requested a notice informing those persons of the fact that the person who committed the violent

1 offense is scheduled to be released *from the Department of*  
2 *Corrections and Rehabilitation or from the State Department of*  
3 *Mental Health, including, but not limited to, conditional release,*  
4 and specifying the proposed date of release. Notice of the  
5 community in which the person is scheduled to reside shall also  
6 be given if it is (1) in the county of residence of a witness, victim,  
7 or family member of a victim who has requested notification, or  
8 (2) within 100 miles of the actual residence of a witness, victim,  
9 or family member of a victim who has requested notification. If,  
10 after providing the witness, victim, or next of kin with the notice,  
11 there is any change in the release date or the community in which  
12 the person is to reside, the board or department shall provide the  
13 witness, victim, or next of kin with the revised information.

14 (b) In order to be entitled to receive the notice set forth in this  
15 section, the requesting party shall keep the department or board  
16 informed of his or her current mailing address.

17 (c) The board or department, when sending out notices regarding  
18 an offender's release on parole, shall use the information provided  
19 by the requesting party in the form completed pursuant to  
20 subdivision (b) of Section 679.03, unless that information is no  
21 longer current. If the information is no longer current, the  
22 department shall make a reasonable attempt to contact the person  
23 and to notify him or her of the impending release.

24 SEC. 5. Section 3058.9 of the Penal Code is amended to read:

25 3058.9. (a) Whenever any person confined to state prison is  
26 serving a term for the conviction of child abuse pursuant to Section  
27 273a, 273ab, 273d, or any sex offense identified in statute as being  
28 perpetrated against a minor victim, or as ordered by any court, the  
29 Board of ~~Prison Terms~~ *Parole Hearings*, with respect to inmates  
30 sentenced pursuant to subdivision (b) of Section 1168 or the  
31 Department of Corrections *and Rehabilitation*, with respect to  
32 inmates sentenced pursuant to Section 1170, shall notify the sheriff  
33 or chief of police, or both, and the district attorney, having  
34 jurisdiction over the community in which the person was convicted  
35 and, in addition, the sheriff or chief of police, or both, and the  
36 district attorney having jurisdiction over the community in which  
37 the person is scheduled to be released on parole or rereleased  
38 following a period of confinement pursuant to a parole revocation  
39 without a new commitment.

1 (b) (1) The notification shall be made by mail at least ~~45~~ 60  
2 days prior to the scheduled release date, except as provided in  
3 paragraph (3). In all cases, the notification shall include the name  
4 of the person who is scheduled to be released, whether or not the  
5 person is required to register with local law enforcement, and the  
6 community in which the person will reside. The notification shall  
7 specify the office within the Department of Corrections *and*  
8 *Rehabilitation* with the authority to make final determination and  
9 adjustments regarding parole location decisions.

10 (2) Notwithstanding any other provision of law, the Department  
11 of Corrections *and Rehabilitation* shall not restore credits nor take  
12 any administrative action resulting in an inmate being placed in a  
13 greater credit earning category that would result in notification  
14 being provided less than ~~45~~ 60 days prior to an inmate's scheduled  
15 release date.

16 (3) When notification cannot be provided within the ~~45~~ 60 days  
17 due to the unanticipated release date change of an inmate as a result  
18 of an order from the court, an action by the Board of ~~Prison Terms~~  
19 *Parole Hearings*, the granting of an administrative appeal, or a  
20 finding of not guilty or dismissal of a disciplinary action, that  
21 affects the sentence of the inmate, or due to a modification of the  
22 department's decision regarding the community into which the  
23 person is scheduled to be released pursuant to paragraph (4), the  
24 department shall provide notification as soon as practicable, but  
25 in no case less than 24 hours after the final decision is made  
26 regarding where the parolee will be released.

27 (4) Those agencies receiving the notice referred to in this  
28 subdivision may provide written comment to the board or  
29 department regarding the impending release. Agencies that choose  
30 to provide written comments shall respond within 30 days prior  
31 to the inmate's scheduled release, unless an agency received less  
32 than ~~45~~ 60 days' notice of the impending release, in which case  
33 the agency shall respond as soon as practicable prior to the  
34 scheduled release. Those comments shall be considered by the  
35 board or department, which may, based on those comments, modify  
36 its decision regarding the community in which the person is  
37 scheduled to be released. The Department of Corrections *and*  
38 *Rehabilitation* shall respond in writing not less than 15 days prior  
39 to the scheduled release with a final determination as to whether  
40 to adjust the parole location and documenting the basis for its

1 decision, unless the department received comments less than 30  
2 days prior to the impending release, in which case the department  
3 shall respond as soon as practicable prior to the scheduled release.  
4 The comments shall become a part of the inmate's file.

5 (c) If the court orders the immediate release of an inmate, the  
6 department shall notify the sheriff or chief of police, or both, and  
7 the district attorney, having jurisdiction over the community in  
8 which the person was convicted and, in addition, the sheriff or  
9 chief of police, or both, and the district attorney, having jurisdiction  
10 over the community in which the person is scheduled to be released  
11 on parole or released following a period of confinement pursuant  
12 to a parole revocation without a new commitment.

13 (d) The notification required by this section shall be made  
14 whether or not a request has been made under Section 3058.5.

15 In no case shall notice required by this section to the appropriate  
16 agency be later than the day of release on parole. If, after the ~~45-day~~  
17 *60-day* notice is given to law enforcement and to the district  
18 attorney relating to an out-of-county placement, there is change  
19 of county placement, notice to the ultimate county of placement  
20 shall be made upon the determination of the county of placement.

21 (e) The notice required by this section shall satisfy the notice  
22 required by Section 3058.6 for any person whose offense is  
23 identified in both sections.

24 SEC. 6. Section 6608 of the Welfare and Institutions Code is  
25 amended to read:

26 6608. (a) Nothing in this article shall prohibit the person who  
27 has been committed as a sexually violent predator from petitioning  
28 the court for conditional release or an unconditional discharge  
29 without the recommendation or concurrence of the Director of  
30 Mental Health. If a person has previously filed a petition for  
31 conditional release without the concurrence of the director and the  
32 court determined, either upon review of the petition or following  
33 a hearing, that the petition was frivolous or that the committed  
34 person's condition had not so changed that he or she would not be  
35 a danger to others in that it is not likely that he or she will engage  
36 in sexually violent criminal behavior if placed under supervision  
37 and treatment in the community, then the court shall deny the  
38 subsequent petition unless it contains facts upon which a court  
39 could find that the condition of the committed person had so  
40 changed that a hearing was warranted. Upon receipt of a first or

1 subsequent petition from a committed person without the  
2 concurrence of the director, the court shall endeavor whenever  
3 possible to review the petition and determine if it is based upon  
4 frivolous grounds and, if so, shall deny the petition without a  
5 hearing. The person petitioning for conditional release and  
6 unconditional discharge under this subdivision shall be entitled to  
7 assistance of counsel.

8 (b) The court shall give notice of the hearing date to the attorney  
9 designated in subdivision (i) of Section 6601, the retained or  
10 appointed attorney for the committed person, and the Director of  
11 Mental Health at least ~~15~~ 60 court days before the hearing date.

12 (c) No hearing upon the petition shall be held until the person  
13 who is committed has been under commitment for confinement  
14 and care in a facility designated by the Director of Mental Health  
15 for not less than one year from the date of the order of commitment.

16 (d) The court shall hold a hearing to determine whether the  
17 person committed would be a danger to the health and safety of  
18 others in that it is likely that he or she will engage in sexually  
19 violent criminal behavior due to his or her diagnosed mental  
20 disorder if under supervision and treatment in the community. If  
21 the court at the hearing determines that the committed person  
22 would not be a danger to others due to his or her diagnosed mental  
23 disorder while under supervision and treatment in the community,  
24 the court shall order the committed person placed with an  
25 appropriate forensic conditional release program operated by the  
26 state for one year. A substantial portion of the state-operated  
27 forensic conditional release program shall include outpatient  
28 supervision and treatment. The court shall retain jurisdiction of  
29 the person throughout the course of the program. At the end of  
30 one year, the court shall hold a hearing to determine if the person  
31 should be unconditionally released from commitment on the basis  
32 that, by reason of a diagnosed mental disorder, he or she is not a  
33 danger to the health and safety of others in that it is not likely that  
34 he or she will engage in sexually violent criminal behavior. The  
35 court shall not make this determination until the person has  
36 completed at least one year in the state-operated forensic  
37 conditional release program. The court shall notify the Director  
38 of Mental Health of the hearing date.

39 (e) Before placing a committed person in a state-operated  
40 forensic conditional release program, the community program

1 director designated by the State Department of Mental Health shall  
2 submit a written recommendation to the court stating which  
3 forensic conditional release program is most appropriate for  
4 supervising and treating the committed person. If the court does  
5 not accept the community program director's recommendation,  
6 the court shall specify the reason or reasons for its order on the  
7 record. The procedures described in Sections 1605 to 1610,  
8 inclusive, of the Penal Code shall apply to the person placed in  
9 the forensic conditional release program.

10 (f) If the court determines that the person should be transferred  
11 to a state-operated forensic conditional release program, the  
12 community program director, or his or her designee, shall make  
13 the necessary placement arrangements and, within ~~21~~ 60 days after  
14 receiving notice of the court's finding, the person shall be placed  
15 in the community in accordance with the treatment and supervision  
16 plan unless good cause for not doing so is presented to the court.

17 (g) If the court rules against the committed person at the trial  
18 for unconditional release from commitment, the court may place  
19 the committed person on outpatient status in accordance with the  
20 procedures described in Title 15 (commencing with Section 1600)  
21 of Part 2 of the Penal Code.

22 (h) If the court denies the petition to place the person in an  
23 appropriate forensic conditional release program or if the petition  
24 for unconditional discharge is denied, the person may not file a  
25 new application until one year has elapsed from the date of the  
26 denial.

27 (i) In any hearing authorized by this section, the petitioner shall  
28 have the burden of proof by a preponderance of the evidence.

29 (j) If the petition for conditional release is not made by the  
30 director of the treatment facility to which the person is committed,  
31 no action on the petition shall be taken by the court without first  
32 obtaining the written recommendation of the director of the  
33 treatment facility.

34 (k) Time spent in a conditional release program pursuant to this  
35 section shall not count toward the term of commitment under this  
36 article unless the person is confined in a locked facility by the  
37 conditional release program, in which case the time spent in a  
38 locked facility shall count toward the term of commitment.

39 SEC. 7. Section 6608.5 of the Welfare and Institutions Code  
40 is amended to read:

1     6608.5. (a) ~~A~~*Except as provided in subdivision (f), a person*  
2 who is conditionally released pursuant to this article shall be placed  
3 in the county of the domicile of the person prior to the person's  
4 incarceration, unless the court finds that extraordinary  
5 circumstances require placement outside the county of domicile.

6     (b) (1) For the purposes of this section, "county of domicile"  
7 means the county where the person has his or her true, fixed, and  
8 permanent home and principal residence and to which he or she  
9 has manifested the intention of returning whenever he or she is  
10 absent. For the purposes of determining the county of domicile,  
11 the court may consider information found on a California driver's  
12 license, California identification card, recent rent or utility receipt,  
13 printed personalized checks or other recent banking documents  
14 showing that person's name and address, or information contained  
15 in an arrest record, probation officer's report, trial transcript, or  
16 other court document. If no information can be identified or  
17 verified, the county of domicile of the individual shall be  
18 considered to be the county in which the person was arrested for  
19 the crime for which he or she was last incarcerated in the state  
20 prison or from which he or she was last returned from parole.

21     (2) In a case where the person committed a crime while being  
22 held for treatment in a state hospital, or while being confined in a  
23 state prison or local jail facility, the county wherein that facility  
24 was located shall not be considered the county of domicile unless  
25 the person resided in that county prior to being housed in the  
26 hospital, prison, or jail.

27     (c) For the purposes of this section, "extraordinary  
28 circumstances" means circumstances that would inordinately limit  
29 the department's ability to effect conditional release of the person  
30 in the county of domicile in accordance with Section 6608 or any  
31 other provision of this article, and the procedures described in  
32 Sections 1605 to 1610, inclusive, of the Penal Code.

33     (d) The county of domicile shall designate a county agency or  
34 program that will provide assistance and consultation in the process  
35 of locating and securing housing within the county for persons  
36 committed as sexually violent predators who are about to be  
37 conditionally released under Section 6608. Upon notification by  
38 the department of a person's potential or expected conditional  
39 release under Section 6608, the county of domicile shall notify the

1 department of the name of the designated agency or program, at  
2 least 60 days before the date of the potential or expected release.

3 (e) In recommending a specific placement for community  
4 outpatient treatment, the department or its designee shall consider  
5 all of the following:

6 (1) The concerns and proximity of the victim or the victim's  
7 next of kin.

8 (2) The age and profile of the victim or victims in the sexually  
9 violent offenses committed by the person subject to placement.

10 For purposes of this subdivision, the "profile" of a victim includes,  
11 but is not limited to, gender, physical appearance, economic  
12 background, profession, and other social or personal characteristics.

13 (f) Notwithstanding any other provision of law, a person released  
14 under this section shall not be placed within one-quarter mile of  
15 any public or private school providing instruction in kindergarten  
16 or any of grades 1 to 12, inclusive, if either of the following  
17 conditions exist:

18 (1) The person has previously been convicted of a violation of  
19 Section 288.5 of, or subdivision (a) or (b), or paragraph (1) of  
20 subdivision (c) of Section 288 of, the Penal Code.

21 (2) The court finds that the person has a history of improper  
22 sexual conduct with children.

23 (g) *Notwithstanding any provision of law to the contrary,*  
24 *including, but not limited to, subdivisions (a) to (f), inclusive, no*  
25 *sexually violent predator shall be conditionally released to a*  
26 *location that is within 35 miles of the actual residence of a victim*  
27 *or witness of a crime as set forth in subdivision (f) of Section 3003*  
28 *of the Penal Code.*

29 SEC. 8. Section 6609.1 of the Welfare and Institutions Code  
30 is amended to read:

31 6609.1. (a) (1) When the State Department of Mental Health  
32 makes a recommendation to the court for community outpatient  
33 treatment for any person committed as a sexually violent predator,  
34 or when a person who is committed as a sexually violent predator  
35 pursuant to this article has petitioned a court pursuant to Section  
36 6608 for conditional release under supervision and treatment in  
37 the community pursuant to a conditional release program, or has  
38 petitioned a court pursuant to Section 6608 for subsequent  
39 unconditional discharge, and the department is notified, or is aware,  
40 of the filing of the petition, and when a community placement



1 location is recommended or proposed, the department shall notify  
2 the sheriff or chief of police, or both, the district attorney, or the  
3 county's designated counsel, that have jurisdiction over the  
4 following locations:

5 (A) The community in which the person may be released for  
6 community outpatient treatment.

7 (B) The community in which the person maintained his or her  
8 last legal residence as defined by Section 3003 of the Penal Code.

9 (C) The county that filed for the person's civil commitment  
10 pursuant to this article.

11 (2) The department shall also notify the Sexually Violent  
12 Predator Parole Coordinator of the Department of Corrections *and*  
13 *Rehabilitation*, if the person is otherwise subject to parole pursuant  
14 to Article 1 (commencing with Section 3000) of Chapter 8 of Title  
15 1 of Part 3 of the Penal Code. The department shall also notify the  
16 Department of Justice.

17 (3) The notice shall be given when the department or its designee  
18 makes a recommendation under subdivision (e) of Section 6608  
19 or proposes a placement location without making a  
20 recommendation, or when any other person proposes a placement  
21 location to the court and the department or its designee is made  
22 aware of the proposal.

23 (4) The notice shall be given at least ~~15~~ 45 days prior to the  
24 department's submission of its recommendation to the court in  
25 those cases in which the department recommended community  
26 outpatient treatment under Section 6607, or in which the  
27 department or its designee is recommending or proposing a  
28 placement location, or in the case of a petition or placement  
29 proposal by someone other than the department or its designee,  
30 within 48 hours after becoming aware of the petition or placement  
31 proposal.

32 (5) The notice shall state that it is being made under this section  
33 and include all of the following information concerning each person  
34 committed as a sexually violent predator who is proposed or is  
35 petitioning to receive outpatient care in a conditional release  
36 program in that city or county:

37 (A) The name, proposed placement address, date of  
38 commitment, county from which committed, proposed date of  
39 placement in the conditional release program, fingerprints, and a

1 glossy photograph no smaller than 3  $\frac{1}{8}$  ~~by~~ 3  $\frac{1}{8}$  inches in size,  
2 or clear copies of the fingerprints and photograph.

3 (B) The date, place, and time of the court hearing at which the  
4 location of placement is to be considered and a proof of service  
5 attesting to the notice's mailing in accordance with this subdivision.

6 (C) A list of agencies that are being provided this notice and  
7 the addresses to which the notices are being sent.

8 (b) Those agencies receiving the notice referred to in paragraphs  
9 (1) and (2) of subdivision (a) may provide written comment to the  
10 department and the court regarding the impending release,  
11 placement, location, and conditions of release. All community  
12 agency comments shall be combined and consolidated. In addition,  
13 a single agency in the community of the specific proposed or  
14 recommended placement address may suggest appropriate,  
15 alternative locations for placement within that community. The  
16 State Department of Mental Health shall issue a written statement  
17 to the commenting agencies and to the court within 10 days of  
18 receiving the written comments with a determination as to whether  
19 to adjust the release location or general terms and conditions, and  
20 explaining the basis for its decision. In lieu of responding to the  
21 individual community agencies or individuals, the department's  
22 statement responding to the community comment shall be in the  
23 form of a public statement.

24 (c) The agencies' comments and department's statements shall  
25 be considered by the court which shall, based on those comments  
26 and statements, approve, modify, or reject the department's  
27 recommendation or proposal regarding the community or specific  
28 address to which the person is scheduled to be released or the  
29 conditions that shall apply to the release if the court finds that the  
30 department's recommendation or proposal is not appropriate.

31 (d) (1) When the State Department of Mental Health makes a  
32 recommendation to pursue recommitment, makes a  
33 recommendation not to pursue recommitment, or seeks a judicial  
34 review of commitment status pursuant to subdivision (f) of Section  
35 6605, of any person committed as a sexually violent predator, it  
36 shall provide written notice of that action to the sheriff or chief of  
37 police, or both, and to the district attorney, that have jurisdiction  
38 over the following locations:

39 (A) The community in which the person maintained his or her  
40 last legal residence as defined by Section 3003 of the Penal Code.

1 (B) The community in which the person will probably be  
2 released, if recommending not to pursue recommitment.

3 (C) The county that filed for the person's civil commitment  
4 pursuant to this article.

5 (2) The State Department of Mental Health shall also notify the  
6 Sexually Violent Predator Parole Coordinator of the Department  
7 of Corrections *and Rehabilitation*, if the person is otherwise subject  
8 to parole pursuant to Article 1 (commencing with Section 3000)  
9 of Chapter 8 of Title 1 of Part 3 of the Penal Code. The State  
10 Department of Mental Health shall also notify the Department of  
11 Justice. The notice shall be made at least 15 days prior to the  
12 department's submission of its recommendation to the court.

13 (3) Those agencies receiving the notice referred to in this  
14 subdivision shall have 15 days from receipt of the notice to provide  
15 written comment to the department regarding the impending  
16 release. Those comments shall be considered by the department,  
17 which may modify its decision regarding the community in which  
18 the person is scheduled to be released, based on those comments.

19 (e) (1) If the court orders the release of a sexually violent  
20 predator, the court shall notify the Sexually Violent Predator Parole  
21 Coordinator of the Department of Corrections *and Rehabilitation*.  
22 The Department of Corrections *and Rehabilitation* shall notify the  
23 Department of Justice, the State Department of Mental Health, the  
24 sheriff or chief of police or both, and the district attorney, that have  
25 jurisdiction over the following locations:

26 (A) The community in which the person is to be released.

27 (B) The community in which the person maintained his or her  
28 last legal residence as defined in Section 3003 of the Penal Code.

29 (2) The Department of Corrections *and Rehabilitation* shall  
30 make the notifications required by this subdivision regardless of  
31 whether the person released will be serving a term of parole after  
32 release by the court.

33 (f) If the person is otherwise subject to parole pursuant to Article  
34 1 (commencing with Section 300) of Chapter 8 of Title 1 of Part  
35 3 of the Penal Code, to allow adequate time for the Department of  
36 Corrections *and Rehabilitation* to make appropriate parole  
37 arrangements upon release of the person, the person shall remain  
38 in physical custody for a period not to exceed 72 hours or until  
39 parole arrangements are made by the Sexually Violent Predator  
40 Parole Coordinator of the Department of Corrections *and*

1 *Rehabilitation*, whichever is sooner. To facilitate timely parole  
2 arrangements, notification to the Sexually Violent Predator Parole  
3 Coordinator of the Department of Corrections *and Rehabilitation*  
4 of the pending release shall be made by telephone or facsimile  
5 and, to the extent possible, notice of the possible release shall be  
6 made in advance of the proceeding or decision determining whether  
7 to release the person.

8 (g) The notice required by this section shall be made whether  
9 or not a request has been made pursuant to Section 6609.

10 (h) The time limits imposed by this section are not applicable  
11 when the release date of a sexually violent predator has been  
12 advanced by a judicial or administrative process or procedure that  
13 could not have reasonably been anticipated by the State Department  
14 of Mental Health and where, as the result of the time adjustments,  
15 there is less than 30 days remaining on the commitment before the  
16 inmate's release, but notice shall be given as soon as practicable.

17 (i) In the case of any subsequent community placement or  
18 change of community placement of a conditionally released  
19 sexually violent predator, notice required by this section shall be  
20 given under the same terms and standards as apply to the initial  
21 placement, except in the case of an emergency where the sexually  
22 violent predator must be moved to protect the public safety or the  
23 safety of the sexually violent predator. In the case of an emergency,  
24 the notice shall be given as soon as practicable, and the affected  
25 communities may comment on the placement as described in  
26 subdivision (b).

27 (j) The provisions of this section are severable. If any provision  
28 of this section or its application is held invalid, that invalidity shall  
29 not affect other provisions or applications that can be given effect  
30 without the invalid provision or application.

31 SEC. 9. If the Commission on State Mandates determines that  
32 this act contains costs mandated by the state, reimbursement to  
33 local agencies and school districts for those costs shall be made  
34 pursuant to Part 7 (commencing with Section 17500) of Division  
35 4 of Title 2 of the Government Code.